

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OSCAR GAGOH and LYDIA GAGOH,

Plaintiffs,

v.

M&T BANK CORPORATION, and
LAKEVIEW LOAN SERVICING, LLC,
jointly and severally,

Defendants.

No.: _____

NOTICE OF REMOVAL

Defendants M&T Bank (erroneously sued as “M&T Bank Corporation”) and Lakeview Loan Servicing, LLC (“Lakeview”) (collectively “Defendants”), hereby remove this action from the Circuit Court of the State of Michigan for the County of Oakland, to the United States District Court for the Eastern District of Michigan, Southern Division pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, and in support thereof state as follows:

1. This action is being removed to federal court based on federal question jurisdiction and diversity jurisdiction.
2. Plaintiffs Oscar Gagoh and Lydia Gagoh (“Plaintiffs”) commenced this action by filing a Summons and Complaint against Defendants on February 23, 2017, in the Circuit Court of the State of Michigan for the County of Oakland, at Case No. 2017-157503-CZ (the “State Court Action”).¹
3. The Complaint and Summons were personally served on M&T Bank on March 1, 2017. A true and correct copy of the Complaint and Summons on file with the State Court are collectively attached as **Exhibit 1**.
4. The Complaint was the first pleading, notice, order, or other paper from which it could be ascertained that this action is removable.

¹ Plaintiffs simultaneously filed an Emergency Ex-Parte Motion for Temporary Restraining Order which was continued by Order dated February 28, 2017 for Plaintiffs to personally serve Defendants.

5. This Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446(b).

6. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between the parties and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs.

a. Per the Complaint, Plaintiffs reside in Oakland County, Michigan. (*See* Compl., Ex. 1, ¶ 2).

b. M&T Bank is a New York state chartered bank and trust company with its headquarters located in Buffalo, New York. *See* 28 U.S.C. § 1332(c)(1) (providing that “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”); Compl., Ex. 1, ¶ 3.

c. Lakeview is a Delaware limited liability company with its headquarters located in Florida. *See* 28 U.S.C. § 1332(c)(1); Compl., Ex. 1, ¶ 4.

d. Accordingly, the parties are citizens of different states. *See* 28 U.S.C. §§ 1332, 1441(b).

e. The amount in controversy in this action exceeds \$75,000.00 because Plaintiffs seek, among other things, relief setting aside a foreclosure sale of real property on August 30, 2016, wherein the property was conveyed for \$344,264.68. (Compl., Ex. 1, ¶¶ 70, 68; Sheriff’s Deed, attached hereto as **Exhibit 2**).

7. Defendants are also removing this matter on the basis of federal question jurisdiction under 28 U.S.C. § 1331. Plaintiffs allege that Defendants are liable for violations of the Fair Housing Act, 42 U.S.C. § 3605(A), § 3604(A) and its implementing regulations, the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.* and its implementing regulations, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692a(6) and its implementing regulations. *See* Compl., Ex. 1, ¶¶ 71-81, 93-100, 104-13. This Court has original jurisdiction in cases that arise under the laws of the United States. 28 U.S.C. § 1441(b).

8. To the extent Plaintiffs allege state law claims, namely violation of the Michigan Consumer Protection Act, M.C.L. § 445.901 *et seq.*, the Court also has supplemental jurisdiction over such claims because they are so related to the federal claims that they form part of the same case or controversy. 28 U.S.C. § 1367.

9. Venue lies in this Court because the State Court Action is pending in Oakland County Circuit Court, which is within this District and Division. 28 U.S.C. § 1446(a); 28 U.S.C. § 102(a)(1).

10. Concurrently with the filing of this Notice of Removal, Defendants are giving written notice of removal to Plaintiffs and filing a copy of this Notice of Removal with the Clerk of the Circuit Court for the State of Michigan for the County of Oakland pursuant to 28 U.S.C. § 1446(d).

11. Defendants have good and sufficient defenses to this action and do not waive any defenses, jurisdictional or otherwise, by the filing of this Notice.

12. This notice is filed in accordance with Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants M&T Bank (erroneously sued as “M&T Bank Corporation”) and Lakeview Loan Servicing, LLC remove this action from the Circuit Court of the State of Michigan for the County of Oakland, to the United States District Court for the Eastern District of Michigan, Southern Division.

DATED this the 20th day of March, 2017.

SEGAL MCCAMBRIDGE SINGER &
MAHONEY LTD

By: s/ Alan J: Taylor

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*Attorney for Defendants M&T Bank (erroneously
sued as "M&T Bank Corporation") and Lakeview
Loan Servicing, LLC*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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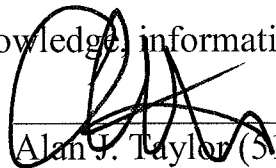
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STATE OF MICHIGAN)

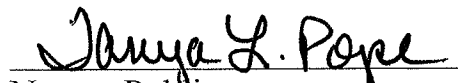
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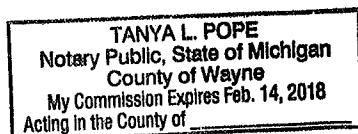
COUNTY OF OAKLAND)

Alan J. Taylor, being first duly sworn, deposes and says, he is a member of the law firm of Segal McCambridge Singer & Mahoney, Ltd, attorneys for Defendant, M&T Bank Corporation and Lakeview Loan Servicing, L.L.C. herein; that he has read the foregoing Notice of Removal and he knows the contents thereof; that the same are true to the best of his knowledge, information and belief.


Alan J. Taylor (SM 660)

Subscribed and sworn to before me
This 20th day of March, 2017


Notary Public



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OSCAR GAGOH and LYDIA GAGOH,)	
)	
Plaintiffs,)	
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v.)	No.: _____
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M&T BANK CORPORATION, and)	
LAKEVIEW LOAN SERVICING, LLC,)	
jointly and severally,)	
)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

I, Tanya Pope, do hereby certify that, on this 20th day of March, 2017, a true and correct copy of the foregoing Notice of Removal together with the attached exhibits including, but not limited to an Affidavit of Counsel, was filed and served electronically via the Court's CM/ECF system to the following parties and counsel:

Adam G. Taub
17200 West 10 Mile Rd., Suite 200
Southfield, MI 48075
Attorney For Plaintiffs
(248) 746-3790
adamgtaub@clgplc.net

and

was served on the Oakland County Circuit Court via the Oakland County Circuit Court's Wiznet System.

/S/ Tanya Pope
